

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

Petition No. 2002-1002-010-079

Department of Public Health

vs.

Thomas Miller, RN, Lic. No.E54556
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated October 11, 2002. Dept. Exh. 1. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Thomas Miller (hereinafter "respondent") which would subject respondent's registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent's continued nursing practice presented a clear and immediate danger to public health and safety. On November 6, 2002, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent's registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing November 6, 2002, scheduling a hearing for November 20, 2002. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against him. The Notice of Hearing and Statement of Charges were delivered by certified mail to respondent. Dept. Exh. 1

The hearing took place on November 20, 2002, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Tr. p. 2.

Respondent did not submit an Answer to the Statement of Charges. At the hearing, the Department moved to amend the Statement of Charges and moved to deem the allegations admitted; the Board denied the motion to amend, and granted the motion to deem allegations admitted. Tr. pp. 6, 8.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued registered nurse license number E54556 on March 23, 1992. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh.1.
2. At all relevant times, respondent was employed as a registered nurse at St. Christopher's Health Center, Norwich, Connecticut. Tr. p. 8.
3. On December 5, 2001, the Board issued a Memorandum of Decision in Petition Number 2001-0727-010-148 ("the 2001 Decision") that placed respondent's registered nurse license on probation for a period of one year beyond the four years of probation ordered in a March 4, 1998 Consent Order in Petition Number 971216-010-086 ("the 1998 Order"). The disciplinary action in the 2001 Decision was based upon respondent's admitted positive test for morphine. Tr. p. 8.
4. The 1998 Order specifically provided that respondent's urine screens shall be negative for the presence of drugs and alcohol. Tr. p. 8.
5. On September 20, 2002, respondent tested positive for the controlled substance oxazepam. Tr. p. 8.
6. On September 25, 2002, respondent tested positive for the controlled substance oxazepam. Tr. p. 8.
7. On October 2, 2002, respondent tested positive for the controlled substance oxazepam. Tr. p. 8.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:
Thomas Miller, R.N., held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* § 4-177(a) and (b), and § 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as § 19a-9-1 through § 19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of his license as required by *Conn. Gen. Stat. § 4-182(c)*.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deemed the allegations in the First Count of the Statement of Charges to be admitted.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals

Based on its findings, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat. §§20-99(b) (5)* and 19a-17, and that said conduct violates the terms of probation as set forth in the 2001 Decision. Therefore, respondent's registered nurse license is subject to disciplinary action pursuant to *Conn. Gen. Stat. § 19a-17*.

Order

Pursuant to its authority under *Conn. Gen. Stat. § 19a-17* and § 20-99, the Board of Examiners for Nursing hereby orders the following:

Respondent's registered nurse license number E54556 is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Thomas Miller, RN and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 21st day of May 2003.

BOARD OF EXAMINERS FOR NURSING

By 